

### **REMARKS**

This responds to the Office Action mailed on June 16, 2005.

Claims 1, 3-5, 11-16, 20, 22, 28-31, 33, 50, 54, 57, 59, 65 and 72 are amended, claims 2 and 34-39 were previously canceled, claims 17-19, 27, 32, 58 and 64 are canceled herein, claims 73-90 are added; as a result, claims 1, 3-16, 20-26, 28-31, 33, 40-57, 59-63 and 65-90 are now pending in this application.

Claims 2, 17-19, 27, 32, 34-39, 58 and 64 have been canceled solely to advance the prosecution of the present application, and without prejudice to their further prosecution in an appropriately filed continuing or divisional application.

The amendments made herein have been to clarify the claims, to change dependency from canceled claims and to correct typographical errors. These amendments are not intended to limit the scope of equivalents to which any claim element may be entitled. The amendments to the claims and new claims have support throughout the specification. See, for example, page 13, lines 15-19; page 17, line 17; page 20, lines 1-3; and original claim 56. No new matter has been added as a result. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

The Examiner stated in the Office Action mailed on December 20, 2004, that the phrase “wire-tufted” recited in claim 16 was a process limitation and hence given no patentable weight. Applicant removed the phrase from claim 16 and the associated dependent claims in order to advance the prosecution of the present application. However, Applicant notes that to the extent a process limitation distinguishes the product over the prior art, it must be given the same consideration as traditional product characteristics. See *In re Luck*, 476 F.2d 650, 177 USPQ 523 (CCPA 1973). Applicant therefore understands that a process limitation in a product claim can and should be given patentable weight.

Applicant stated in the Amendment and Response mailed on March 7, 2005, that Amundson was commonly owned and thus not available as prior art under 102(e)/103(a). Applicant acknowledges for the record that since Amundson issued more than one year prior to the filing date of the present application, it is available as a reference under 102(b), which cannot be overcome by evidence of common ownership. Regardless, Applicant expressly submits that Amundson does not anticipate the claims under 102(b) nor does it teach or suggest the claims

under 103(a) alone or in combination with any of the cited references. Applicant further understands that none of the pending claims stand rejected under Amundson.

### Interview Summary

Examiner Boyd and Applicant's Representative, Barbara Clark, held a telephonic interview on September 7, 2005. Various claim amendments were discussed although no specific agreement was reached. Ms. Clark thanks Examiner Boyd for the courtesies extended during the interview.

### §102 Rejection of the Claims

#### Claims 1, 3-8, 11, 22-23, 25-27, 32-33, 54, 58-59, 60-61, 63-68 and 71-72

Claims 1, 3-8, 11, 22-23, 25-27, 32-33, 54, 58-59, 60-61, 63-68 and 71-72 were rejected under 35 U.S.C. § 102(b) for anticipation by Takeuchi et al. (EP 0865755), hereinafter "EP Takeuchi." Claims 27, 32, 58 and 64 have been canceled, thus rendering the rejection moot as to these claims.

Anticipation under 35 USC § 102 requires the disclosure in a single prior art reference of each element of the claim under consideration. In re Dillon, 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), *cert. denied*, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). "The *identical invention* must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131 (emphasis added).

EP Takeuchi discusses a wiping sheet having two outer sheets and an absorbent core. The two outer sheets have bonding lines in contact with the absorbent core. Adjacent protrusions "M" are oriented outwardly.

In contrast, claim 1, as amended, recites, in part, one layer of tufted material located between at least two outer layers of nonwoven material. Also in contrast, claim 5 recites, in part, at least two layers of tufted material having projections oriented inwardly. Similarly, claim 22 recites in part, individual tufts oriented inwardly; claim 54 recites, in part, a projection oriented inwardly and claim 65 recites, in part, two layers of tufted material having projections oriented towards each other.

Applicant cannot find, in EP Takeuchi, one layer of tufted material located between at least two outer layers, nor layers of tufted material having projections or individual tufts oriented inwardly or towards each other. EP Takeuchi, therefore does not appear to teach each element of claims 1, 5, 22, 54 and 65.

EP Takeuchi does not anticipate claims 1, 3-8, 11, 22-23, 25-26, 33, 54, 59, 60-61, 63, 65-68 and 71-72. Applicant respectfully submits that the independent claims are allowable in their present form. Since the dependent claims depend from and further define the independent claims, these claims are also believed to be allowable in their present form. Notification to this effect is respectfully requested

#### Claims 22-27

Claims 22-27 were rejected under 35 U.S.C. § 102(b) for anticipation by Takeuchi et al. (US 6,054,202), hereinafter “US Takeuchi.” Claim 27 has been canceled, thus rendering the rejection moot as to this claim.

The Office Action states that US Takeuchi teaches various elements of the claims.

US Takeuchi discusses a wiping sheet composed of two pieces of nonwoven fabrics laid on top of the other and fusion-bonded together at fusion-bonding lines.

In contrast, claim 22, as amended, recites, in part, an absorbent sheet comprising an internally tufted laminate having at least two layers of tufted material, the at least two layers having opposing bondable individual tufts oriented inwardly.

Applicant cannot find, in US Takeuchi, bondable individual tufts.

US Takeuchi does not anticipate the claims, as amended. Applicant respectfully submits that claim 22 is allowable in its present form. Since claims 23-26 depend from and further define

claim 22, these claims are also believed to be allowable in their present form. Notification to this effect is respectfully requested.

### §103 Rejection of the Claims

#### Claims 12-15, 28-31, 50-53 and 55-57

Claims 12-15, 28-31, 50-53 and 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over EP Takeuchi.

The Office Action states that EP Takeuchi teaches various elements of the recited claims.

Applicant respectfully submits that the Office Action has not established the *prima facie* obviousness of the present claims. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Applicant respectfully traverses the single reference rejection under 35 U.S.C. 103 since not all of the recited elements of the claims are found in EP Takeuchi. This includes, for example, opposing tufts of any length, as well as bondable projections or bondable individual tufts of any length, let alone oriented inwardly. Since all the elements of the claims are not found in the reference, Applicant assumes that the Examiner is taking official notice of the missing elements. Applicant respectfully objects to the taking of official notice with a single reference obviousness rejection and, pursuant to MPEP 2144.03, Applicant respectfully traverses the assertion of Official Notice and requests that the Examiner cite references in support of this position.

Furthermore, claims 12-15, 28-31, 51-53 and 55-57 are dependent claims. The additional limitations provided in dependent claims cannot by themselves be rendered obvious over the cited references if the independent claim from which it depends is determined to be nonobvious.

EP Takeuchi does not teach or suggest the claimed invention for all the reasons stated above. EP Takeuchi is seeking to solve problems associated with wiping sheets. Further, the wiping sheets in EP Takeuchi have projections “M” oriented outwardly. There is clearly no indication of any appreciation of the problem being solved by Applicant's invention. When a person, having the references before him and not cognizant of Applicant's disclosure, would not be informed that a problem (solved by Applicant's claimed invention) ever existed, such references (which never recognized the problem) *could not have suggested its solution*. Combining references in this manner is improper. In re Shaffer, 229 F.2d 476, 108 USPQ 326, 329 (CCPA 1956). Focusing on the obviousness of substitutions and differences instead of on the invention as a whole is a legally improper way to simplify the difficult determination of obviousness. Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 USPQ 81, 93 (Fed. Cir.1986). It is improper to pick and choose among the references to try to recreate Applicant's invention.

Applicant respectfully submits that independent claim 5 and claims 12-15 which depend therefrom, independent claim 22 and claims 28-31 which depend therefrom, independent claim 50 and claims 51-53 which depend therefrom and independent claim 54 and claims 55-57 which depend therefrom, are patentably distinct from the cited reference. The claims, viewed as a whole, are not suggested by the cited reference and not obvious under 35 USC 103(a).

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 9-10, 16-21, 62 and 69-70

Claims 9-10, 16-21, 62 and 69-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over EP Takeuchi in view of Rhodes, III (EP 03343304). Claims 17-19 have been canceled, thus rendering the rejection moot as to these claims.

The Office Action states that the references teach various elements of the recited claims.

Applicant again respectfully submits that the Office Action has not established the *prima facie* obviousness of the present claims.

Furthermore, claims 9-10, 20-21, 62 and 69-70 are dependent claims. The additional limitations provided in dependent claims cannot by themselves be rendered obvious over the cited references if the independent claim from which it depends is determined to be nonobvious.

Applicant respectfully submits that independent claims 5, 16, and 65 are nonobvious. As such, claims 9-10, 20-21, 62 and 69-70 are allowable in their present form.

EP Takeuchi does not teach or suggest the present invention for all the reasons stated herein. Rhodes does not overcome the deficiencies of the primary reference. Rhodes discusses a wiper comprising a meltblown polypropylene substrate having a wetting agent capable of imparting durable hydrophilicity to the wiper.

Clearly, the product in the primary reference and the products in the secondary references are all fundamentally different from each other and such critical differences must be recognized. In re Bond, 910 F.2d 831, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990), *reh'g denied*, 1990 U.S. App. LEXIS 19971 (Fed. Cir. 1990).

Furthermore, Applicant can find no teaching or suggestion in EP Takeuchi *as to the desirability* of using meltblown polymer.

The Office Action has provided no objective evidence for a suggestion or motivation to combine the references and the rejection should be withdrawn. Notification to this effect is respectfully requested. (See also In re Sang Su Lee, *supra*).

Additionally, the references neither independently, or combined, contain each and every element of Applicant's claimed invention. (When evaluating the scope of a claim, every limitation in the claim must be considered. In re Ochiai, *supra*). For example, the references do not contain bondable projections surrounded by a valley or bondable projections oriented inwardly or towards each other.

Applicant respectfully submits that independent claim 5 and claims 9-10 which depend therefrom, and independent claim 16 and claims 20-21 and 62 which depend therefrom, and independent claim 65 and claims 69-70 which depend therefrom, are patentably distinct from the cited references. The claims, viewed as a whole, are not suggested by the cited references and not obvious under 35 USC 103(a).

Reconsideration and withdrawal of this rejection is respectfully requested.

Serial Number: 10/021,867

Filing Date: December 17, 2001

Title: INTERNALLY-TUFTED LAMINATES

CONCLUSION

Applicant firmly believes that all of the claims are in condition for allowance. If, upon review of the foregoing, the Examiner is still not convinced that the pending claims are in condition for allowance, the courtesy of an Examiner's Interview with Applicant's Representative, Barbara J. Clark, is respectfully requested prior to preparation of the next Official Communication.

Again, Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is urged to telephone Applicant's attorney 515-233-3865 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

THOMAS J. KOPACZ ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
515-233-3865

Date SEPTEMBER 16, 2005

By

  
Barbara J. Clark

Reg. No. 38,107

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of September, 2005.

PATRICIA A. HULTMAN

Name

  
Signature